EXHIBIT A



Alexander S. Bardey, M.D., PLLC Kate Termini, Psy.D. Miranda Rosenberg, Psy.D. Amy DeSimon, LMHC

FORENSIC-PSYCHIATRIC EVALUATION

<u>LUIS CRUZ</u> Indictment No.: 22-MAG-1053

November 18, 2022

Deborah Colson, Esq. Colson Law PLLC 80 Broad St, 19th floor New York, NY 10004

Dear Ms. Colson,

At your request, I performed a psychiatric evaluation of your client, Mr. Luis Cruz, a 57-year-old Hispanic man charged with one count of narcotics conspiracy resulting in death, for events that occurred between August 2020 and February 2022. The purpose of the examination was to assist you in gaining a better understanding of any underlying psychological factors that could be considered mitigating in the disposition of this case. The examination took place via Cisco WebEx, a secure video-conferencing platform, on October 5, 2022, and October 20, 2022.

In conducting this psychiatric evaluation, I reviewed Mr. Cruz's personal, social, educational, vocational, and psychiatric histories, and I reviewed his understanding of the circumstances that led to his current legal situation. I performed a mental status examination in order to assess Mr. Cruz's intelligence, thought processes, cognitive functioning, memory, credibility, orientation, judgment, insight, and impulse control. The limits of confidentiality inherent to such an evaluation were explained to Mr. Cruz.

In addition to my examination, I conducted the following collateral interviews via telephone:

- 1. Sandra Cruz, sister, on October 31, 2022
- 2. Marisa Cruz, daughter, on November 17, 2022

¹ United States of America v. Irvin Cartagena aka "Green Eyes," Hector Robles aka "Oreja," Luis Crus aka "Mostro," and Carlos Macci aka "Carlos Macchi," aka "Carlos Marchy," aka "Carlito," Indictment, undated

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Additionally, I reviewed the following documents in making my assessment:

1. Legal Discovery:

- a. United States of America v. Hector Robles aka "Oreja," Luis Cruz aka "Mostro," and Carlos Macci aka "Carlito," Sealed Complaint, dated February 1, 2022
- b. United States of America v. Irvin Cartagena aka "Green Eyes," Hector Robles aka "Oreja," Luis Crus aka "Mostro," and Carlos Macci aka "Carlos Macchi," aka "Carlos Marchy," aka "Carlito," Indictment, undated
- c. United States Attorney's Office Southern District of New York, Four Defendants Arrested in Connection With The Overdose Death of Michael K. Williams, February 2, 2022

PAST PERSONAL AND PSYCHIATRIC HISTORY

Mr. Luis Cruz is a 57-year-old Hispanic male born on February 7, 1965, in Puerto Rico to the union of Ms. Norina Martinez Cruz and Mr. Luis Cruz Sr. Before the age of five, Mr. Cruz reported, he came to the United States with his family and settled in the Williamsburg neighborhood of Brooklyn, NY. Mr. Cruz reported that his mother was a homemaker while his father was a bus driver. Mr. Cruz has two older sisters, Sandra and Emmie, as well as an older half-brother, Edwin Galarza. He described his childhood as "wonderful," but indicated that his parents "used to beat the sh-t out of [my brother and I] if we did anything wrong." Mr. Cruz reported that there is no history of mental health or substance abuse issues on either side of his family. Additionally, his parents retired and moved back to Puerto Rico approximately 20 years ago.

Mr. Cruz attended public school in Brooklyn, NY, beginning with PS 19 for grades one through five. He did not report any learning or behavioral issues at that time and described himself as a sociable student. Mr. Cruz subsequently attended PS 50 for grades six through eight before advancing to Eli Whitney Vocational High School, where he began training to be an electrician. During high school, Mr. Cruz reportedly experimented with marijuana, LSD, cocaine, and alcohol. That said, he was always enrolled in mainstream classes and was never suspended or expelled. He credited his parents for their strict discipline, which encouraged him to always do well in school. Additionally, Mr. Cruz worked at a supermarket throughout his time in high school. After graduating in 1985, Mr. Cruz obtained a scholarship to attend the College of Aeronautics in East Elmhurst, NY. However, he quickly began to feel that his high school education had not properly prepared him for college. After two terms, Mr. Cruz discontinued his education. He subsequently enrolled in a six-month electrician apprenticeship course in Brooklyn in 1989. Throughout his twenties, Mr. Cruz reportedly worked at a rental office and pharmacy, along with several other odd jobs. Since completing the electrician course, he has periodically worked in that profession.

In 1994, Mr. Cruz began a relationship with Ms. Marjie Lopez. Though the two never legally married, they had three children together: Luis (26), Kayla (24), and Marisa (21). Mr. Cruz

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and Ms. Lopez subsequently ended their relationship in 2003 (i.e., "we didn't get along"). Mr. Cruz's daughters currently live in Queens, NY with their mother, while his son lives in the rent-controlled apartment that Mr. Cruz inherited from his parents. According to Mr. Cruz, he has had no other serious romantic relationships.

Mr. Cruz indicated that he previously used LSD, crack cocaine, and marijuana, but discontinued his use in the late 1990s. Thereafter, he has mainly used cocaine and heroin. He also admittedly sold heroin prior to 2018, at which time he required hip replacement surgery. Mr. Cruz explained that his alcohol consumption and heroin use increased dramatically after his surgery, as he was mainly homebound. Despite his long term substance use, however, Mr. Cruz has never overdosed or required hospitalization. He has also never received mental health or substance abuse treatment at any time. Additionally, though he has been arrested for "petty stuff" due to his heroin addiction, Mr. Cruz has never been sentenced to prison time. Of note, Mr. Cruz has admittedly used K2 since being incarcerated for the instant offense. He expressed that he often gets "urges" to use illicit substances and would like to be placed on medication to curb these cravings.

REVIEW OF COLLATERAL DOCUMENTS

According to the sealed felony complaint, Mr. Cruz, along with coconspirators Mr. Hector Robles, Mr. Carlos Macci, and Mr. Irvin Cartagena, distributed and possessed with intent to distribute controlled substances, namely heroin, containing fentanyl and a fentanyl analogue between August 2020 and February 2022.² In 2021, the NYPD began investigating their alleged drug trafficking organization operating in the Williamsburg neighborhood of Brooklyn, NY. The organization reportedly sold heroin laced with fentanyl and a fentanyl analogue from an apartment on South 3rd street, as well as on the street in front of the apartment. On September 5, 2021, the organization reportedly sold Mr. Michael K. Williams heroin laced with fentanyl. This is supported by cell phone data, surveillance video, and evidence found in Mr. Williams' apartment. Mr. Williams subsequently died as a result of using the fentanyl-laced heroin. The complaint further indicated that the organization continued to sell fentanyl-laced heroin despite being aware of Mr. Williams' death.³ Of note, Mr. Williams directly purchased the fentanyl-laced heroin from Mr. Cartagena.⁴

As part of their investigation, the NYPD completed several controlled purchases from the organization. On June 17, 2021, a confidential informant working under the direction of law enforcement purchased "ten glassines of heroin" from Mr. Cruz. Subsequent lab testing identified the substance inside of the glassines as "heroin, fentanyl, and para-fluorofentanyl (a

² United States of America v. Hector Robles aka "Oreja," Luis Cruz aka "Mostro," and Carlos Macci aka "Carlito," Sealed Complaint, dated February 1, 2022

³ United States of America v. Hector Robles aka "Oreja," Luis Cruz aka "Mostro," and Carlos Macci aka "Carlito," Sealed Complaint, dated February 1, 2022

⁴ United States Attorney's Office - Southern District of New York, Four Defendants Arrested in Connection With The Overdose Death of Michael K. Williams, February 2, 2022

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fentanyl analogue)."⁵ Mr. Cruz sold another ten glassines to the confidential informant on August 3, 2021, seven of which were found to be laced with fentanyl. After Mr. Williams' death, the confidential informant discussed the incident with Mr. Cruz during an additional controlled purchase. When the informant expressed concern about purchasing "the same sh-t" that had caused Mr. Williams' death, Mr. Cruz responded, "what, what you think that it has – fentanyl and sh-t? We don't, don't f-ck with that." Approximately five more controlled purchases were made between September 2021 and January 2022, all of which tested positive for fentanyl and/or fentanyl analogues.⁶

Mr. Cruz is currently incarcerated at the Essex County Correctional Facility. He is not currently prescribed any psychotropic medication.

COLLATERAL INTERVIEWS

Sandra Cruz

A collateral telephone interview was conducted with Ms. Sandra Cruz (58), Mr. Cruz's sister, on October 31, 2022. Ms. Cruz explained that she and Mr. Cruz were very close growing up and experienced a typical childhood with "good parents." She described her brother as an extremely intelligent individual, explaining that "he graduated third in his class" and "had a full scholarship to the Academy of Aeronautics...in math he got 100s, in science he got 100s...I mean, he's a genius...he could've been a millionaire." Once he became an electrician, she reported, everyone in the neighborhood began to call him "Monstro," which translates to 'the monster,' due to his extraordinary talents (i.e., "he's a Macgyver"). For example, Ms. Cruz described an incident in which their entire block lost electricity due to a black out a few summers ago, and Mr. Cruz was "able to go downstairs and fix it for his building." With that being said, Ms. Cruz voiced her disappointment in her brother's substance use, and expressed the belief that it has impeded the fulfillment of his true potential.

According to Ms. Cruz, her brother began abusing drugs after she moved out of the family home. As such, she was unaware of the frequency or severity of his use. She attributed Mr. Cruz's introduction to drugs to "peer pressure" from several friends beginning in his late twenties. When Ms. Cruz confronted her brother about his substance use and suggested he participate in a rehabilitation program, she reported, Mr. Cruz became aggressive and cut off contact with her. Ms. Cruz further reported that Mr. Cruz's substance use subsequently worsened after his hip replacement surgery.

Regarding the instant offense, Ms. Cruz indicated that, unlike her brother, his codefendants have long criminal histories. Additionally, she expressed that "he needs to get away

⁵ United States of America v. Hector Robles aka "Oreja," Luis Cruz aka "Mostro," and Carlos Macci aka "Carlito," Sealed Complaint, dated February 1, 2022

⁶ United States of America v. Hector Robles aka "Oreja," Luis Cruz aka "Mostro," and Carlos Macci aka "Carlito," Sealed Complaint, dated February 1, 2022

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from that place. He needs a very serious rehab...because where he's at, there's drugs there, too...if it was up to me, take him somewhere and just lock him up somewhere...he needs help." She added that she hopes his current incarceration will serve as a "stepping stone" to getting the help he needs to achieve sobriety.

Marisa Cruz

On November 17, 2022, a collateral telephone interview was conducted with Mr. Cruz's daughter, Marisa (21). Ms. Cruz described her father as a "smart guy" who became involved with "the wrong crowd," which led to him abusing substances for over two decades. She reported that her father was absent for the majority of her upbringing because of his ongoing drug problem. Ms. Cruz explained that while she was never directly exposed to his substance abuse because she never lived with Mr. Cruz, she has always been aware of his addictions. She stated that Mr. Cruz is also an alcoholic, stating that he typically drank beer "like it's water" on a daily basis. Ms. Cruz further reported that she started visiting her father while he was in the hospital recovering from his hip replacement surgery because she knew he was sober during that time. However, he resumed his substance use following his release. As she got older, Ms. Cruz reported, she saw her father approximately once a week and could tell that he was always intoxicated.

CURRENT MENTAL STATUS EXAMINATION

Mr. Luis Cruz is a 57-year-old Hispanic man who presented to his examination as alert and fully oriented in all spheres. He was appropriately groomed in DOC attire and appeared his stated age. Mr. Cruz was cooperative and forthcoming throughout the examination, answering all questions posed to him. His answers were often tangential, however, and Mr. Cruz often gesticulated as he spoke. Additionally, Mr. Cruz tended to restate the questions he was asked and spoke in a relatively unsophisticated manner. That said, his thought processes were logical and goal-directed, and there was no evidence of a thought disorder.

Mr. Cruz's mood was euthymic and his affect, or expressed emotional tone, was broad, appropriate, and congruent with his mood. He did not display depressive, manic, or psychotic symptoms at the time of the evaluation, nor did he report a history of any mental health issues. Mr. Cruz did not exhibit any abnormal psychomotor activity, perceptual disturbances, or negative preoccupations at any time. He presented as open and honest regarding his personal history and substance use. He was grossly intact cognitively and appeared to be of low to average intelligence.

DIAGNOSIS AND FORMULATION

Opioid Use Disorder, in remission in a controlled environment Stimulant Use Disorder, in remission in a controlled environment Cannabis Use Disorder

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Mr. Luis Cruz is a 57-year-old Hispanic man charged with one count of narcotics conspiracy resulting in death for events that occurred between August 2020 and February 2022. The purpose of the examination was to assist you in gaining a better understanding of any underlying psychological factors that could be considered mitigating in the disposition of this case.

It is of primary importance to address that Mr. Cruz suffers from chronic substance abuse which has incontrovertibly governed much of his emotional and behavioral faculties since his adolescence. Mr. Cruz began experimenting with LSD, marijuana, and crack cocaine while still in high school. His early introduction to illicit substances laid the foundation for ongoing and worsening substance use in subsequent years (i.e., "the earlier teens start using substances, the greater their chances of continuing to use substances and developing substance use problems later in life"). Mr. Cruz's ability to successfully navigate the stresses of his everyday life was significantly hindered by his early substance use. This in turn pushed him towards a fringe lifestyle that has characterized his life ever since, and directly contributed to his involvement in the criminal justice system, including the present offense conduct. Indeed, Mr. Cruz's substance use later shifted to heroin and cocaine as he reached his thirties and has persisted throughout his entire adult life. Although Mr. Cruz has worked on and off as an electrician since his late twenties, he also resorted to selling heroin and committing petty crimes in order to support his habit. Further, Mr. Cruz has never participated in substance abuse treatment of any kind and his interpersonal relationships have suffered as a result. In the months leading up to his involvement in the instant offense, Mr. Cruz associated with known drug dealers, purchased large amounts of heroin, and used illicit substances frequently.

With that being said, Mr. Cruz meets the Diagnostic and Statistical Manual of Mental Disorders-Fifth Edition -- TR (DSM-5-TR) criteria for several substance use disorders, including opioid use disorder, stimulant use disorder, and cannabis use disorder. His long-term use of heroin and cocaine was characterized by large amounts of time spent in self-destructive activities in order to obtain the illicit substances and persistent social problems caused by the effects of his use. That said, Mr. Cruz expressed a desire to receive substance use treatment to combat his urges to abuse illicit substances.

Mr. Cruz chronically used heroin and cocaine in the days, weeks, and years leading up to and including the instant offense. Extant literature has demonstrated that chronic substance abuse causes enduring neurobiological changes in brain structure, directly resulting in impaired cognitive functioning, judgment, memory, and concentration. This appears to be true of Mr. Cruz. As his addictions took hold of his life, his social circle and daily activities began to revolve around his substance use. A study conducted in 2015 indicated that, while most people with heroin addiction may experience increased cravings when they see specific drug paraphernalia (e.g., white powder, a syringe), "the presence of a specific friend…may trigger intense craving for only one individual with this form of addiction as a function of their unique substance use

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⁷ Centers for Disease Control and Prevention. (2020, February 10). *Teen Substance Use & Risks*. Centers for Disease Control and Prevention

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history." This may explain Mr. Cruz's ongoing involvement in the drug trafficking organization. Surrounded by acquaintances who were also involved in drug use and sales, Mr. Cruz's ability to think critically and make good decisions was profoundly impaired as a result of his addiction. As such, Mr. Cruz's involvement in the instant offense is a complex admixture of the short-term and longer term psychological processes caused by his substance addiction. I would posit that, should Mr. Cruz be given the opportunity to participate in long-term and closely monitored substance abuse treatment, Mr. Cruz could achieve long-term management of his substance addictions, thus minimizing his risk of recidivism.

It is therefore my opinion, to a reasonable degree of medical certainty, that at the time of the offense, Mr. Cruz's mental state was characterized by several co-occurring substance use disorders, the symptoms of which significantly impacted on his thinking, judgment, and decision-making during the offense conduct. It is my professional opinion that these factors warrant consideration as mitigating factors in reaching an appropriate disposition of his criminal charges.

Respectfully submitted,

Alexander Sasha Bardey, M.D.

FIFTH AVENUE FORENSICS

Diplomate in Psychiatry and Forensic Psychiatry, American Board of Psychiatry and Neurology Assistant Professor, Department of Psychiatry, New York University Medical Center Adjunct Assistant Professor, Department of Psychiatry and Behavioral Sciences, New York Medical College

⁸ Fatseas, M., Serra, F., Alexandre, J.M., Debrabant, R., Auriacombe, M., & Swendsen, J. (2015). Craving and substance use among patients with alcohol, tobacco, cannabis or heroin addiction: a comparison of substance- and person-specific cues. *Society for the Study of Addiction, (110).* 1035-1042

EXHIBIT B

9/8/23 DEAR JUDGE Abrams, I would like to sincerely Apologiza FOR selling drugs in my community. It was a terrible mistake in judgment I was using before my hips sorgery, but my addiction got much worst after the operation. I sold to suppost my pabif and pay my bills. This is no excuse, but it is the truth. I have been in jail for 18 months now, and I am completely clean. I feel much healthier and stronger. I have wift weigh and able to walk much better. Now that I am cut the MX, I am taking all types of chasses. My mind is Also getting stronger I am surrouded by so many different people, and have no choise to have patience Your honor again, I am truly sorry for my tosson arme. I have Learned my tesson and Cannot with to got out, shart working again, and see my family and kids who I love out miss so much. I have being a electorican. feeling needed by ofther, and serving my commingly. Luis CROZ.

EXHIBIT C

September 10, 2023

Dear Judge,

My name is Margie Lopez. I am the ex-partner of Luis Cruz. We lived together in Brooklyn for 11 years, and we have three adult children together.

When we were together, Luis worked as an electrician, and I worked in air export operations. Luis tried his best to be a good father. When our children were young, we had some fun times as a family, including some great vacations. I remember going to Puerto Rico over Christmas to visit his family. I also remember going to Lake George, NY for our summer vacation. We stayed at a hotel with a pool and went on a beautiful boat ride. It was a very memorable experience.

All of our children are doing well now. Our son is working, our older daughter is in college and our youngest daughter is a dog walker. We both love our children very much.

Kind regards,

Margie Lopez

Margie Lopez

EXHIBIT D

September 13, 2023

Your Honor,

My name is Marissa Cruz. I am the youngest daughter of Luis Cruz. My dad worked as an electrician when I was young, and he tried hard to be a good parent. He picked us up after school and would make his famous hamburgers for us. I remember when he took me and my siblings to play outside in the snow, and since I was the youngest, he would always carry me on his shoulders. He used to take us to the game store to buy and/or rent games for our Nintendo DS and Gameboy.

In recent years, my dad has struggled with drug addiction, which is so hard for me and the rest of the family to witness. He has been clean since his arrest, and I am proud of him for that. With the proper treatment, I know that he will remain clean when he is released.

Yours truly,

Marissa Cruz Marissa Cruz

EXHIBIT E

September 13, 2023

Your Honor,

Hello, my name is Kaila Cruz, and I am the second child of Luis Cruz. I believe he deserves a second chance. My father struggled with drug addiction, which was very difficult to see growing up. As I grew up, I noticed I had some of my dad's qualities such as an interest in History and being good at math. I remember when I was six years old, and I was playing in the park with my friends. I was thirsty from playing tag which led us to go to the bodega on the corner. I got juice and chips for myself not thinking about anybody else. He told me, "Get some for your friends as well." Meanwhile, I didn't want to get anything for them. I ended up getting more chips and juices for my friends. The smile on their faces was a great feeling to have. He taught me not to be greedy and to take care of the people that surrounded me.

When I heard the news from my mother that he was taken away. I was heartbroken because we discussed he was going to pay for my sister and I's driver licenses. Hopefully, he was going to teach us how to drive or get us driving lessons. As I got a glimpse of the future, I realized I will not be able to get the father and daughter's dance at my wedding that I always dreamed of.

Best,

Kaila Cruz

EXHIBIT F

To Whom It May Concern:

My name is Ana Seda I have know Luis for over 50 years he's been my neighbor and friend for all those years and more. He has always looked out for me helping me with my father (my father was diagnosed with dementia) always asking me if I needed help with him. Even physically bringing my father back when he wandered off.

Luis was always helping people in the building. When his parents moved to Puerto Rico we share thanksgiving, Christmas and New Years together. I even helped him out bringing him food when he had gotten surgery for his hip. Luis was unable to move around and I would take him food etc.

We grew up in a tight knit community here in the Southside but sometimes you involved yourself with people that are another good people, I pray for him and I know he will come out and do well. Please feel free to reach out to me if you need to at 646-243-3858.

Sipcerely

Ana Seda (aka Reina)

EXHIBIT G

To Whom It May Concern:

I am sending this letter regarding Luis Cruz, in which I have know for over 50 th years. We grow up in a tough neighborhood of Williamsburg Brooklyn. Playing outside spending our summers in campsites with our family.

My father Miguel Seda was the superintendent in the building of 224 south 3rd street for at least 55 plus years. Luis was always helping out the elders in the building. He even looked at numerous times for my father who had dementia and would wander off. Luis would physically carry him back to the apartment.

Luis is a good person but sometimes we as humans surround ourselves with not good people. I hope and pray everyday for him. Sometimes you have to learn a lesson. If there is a need for the courts to reach to me please feel free at 917-697-6468.

Sincerely

Uľpialinda Baez (aka Tata)

EXHIBIT H

To Whom It May Concern:

I am Roily Roberto Bourdierd (La Espanola Meat Market) for over 30 years located at 181 Havemeyer Street Brooklyn, New York 11211.

Luis Cruz did multiple jobs as an electrician for my business as well as my residential in the Bronx at 1288 Waring Ave Bronx, New York 10469.

He was know to be on of the most respected electricians in the world neighborhood. If there is any questions feel free to call me at 718-782-0868

Sincerely

Roily Roberto Bourdierd

EXHIBIT I

Warren Johnson Electric—Judge Abrams

Re: Luis Cruz 9/13/2023

I am writing to you as the owner of Warren Johnson Electric. Mr. Cruz used to work for me as an electrician and I believe I paid him \$800 a week. He was hard working and good at his job and customers loved him. In fact, if you asked anyone in the neighborhood about his character, they would only have good things to say. He is an honest man who comes from a good family and he is friendly and kind

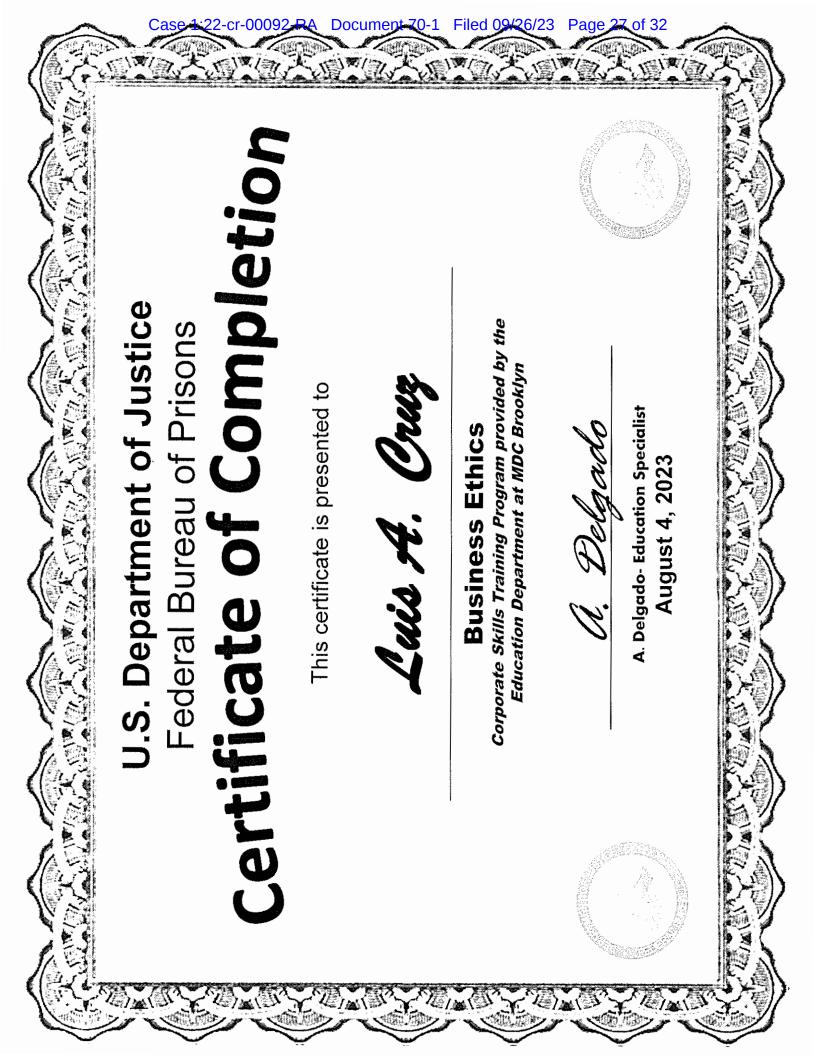
I am sorry to hear that he has gotten himself into trouble, but I know he can rehabilitate because he has the support of his family and love of his community.

Thank you

Warren Johnson

EXHIBIT J





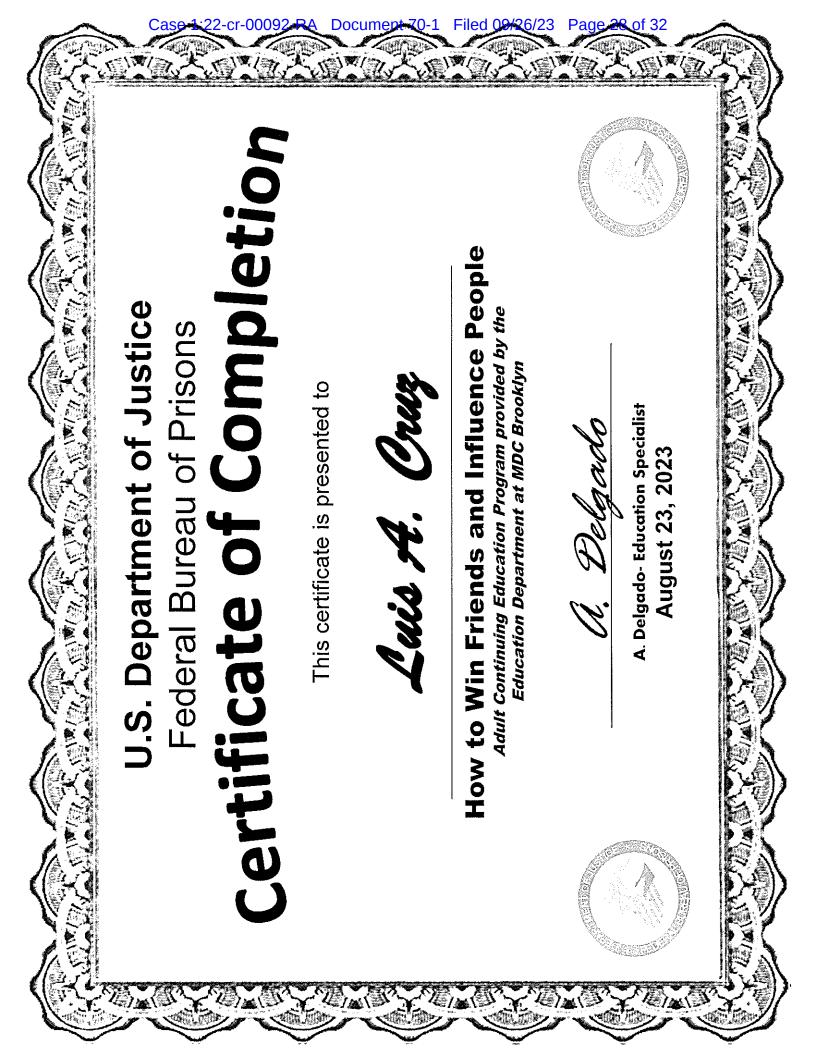


EXHIBIT K

To Whom It May Concern:

I am the sister of Luis A Cruz I was born in January 1964 he was born February 1965 that's to show you how close we were growing up. My brother was very smart that he received a full scholarship to the Academy of Aeronautics graduating 3rd in his class. Luis was very fit he was a cyclist.

He is a father of 3 grown children 1 boy and 2 girls. (I am god mother to one of his daughters) Taken the kids camping, getting up in the nights feeding and changing his kids. Working as an electrician having multiple jobs everything went well.

Who he started to be associated with I have no idea? He also was a good son he went to visit my mother in Puerto Rico when he found out she was diagnosed with dementia (that was just 2 Christmas ago)

We were not brought up to see any of this (in our home) even though we were surrounded by this in our neighborhood. My father was an MTA worker had a good job all he wanted was for the best from us. He passed away this year 2/2024 at the age of 87. Hopefully all this happening to him he has learned that has to be a better way and he needs to do better and surround himself from positive people.

With gratitude

andra Cruz

EXHIBIT L

8/1/2023

To Whom It May Concern

I'm Edmee Delgado sister of inmate Luis A Cruz of four siblings he is the youngest. He was a happy, adventurous child growing up. He loved cycling and camping as a teenager. He would help the elderly in our building while growing up. He is well liked with those in the building where we grew up.

He has 3 children and loves them very much. My parents tried to guide him in the correct ways growing up but as you know children sometimes think they know best.

Unfortunetely as a teenager he had some friends with bad habits instead of my brother finding new friends he allow them to influence him. I hope this experience would be an eye opening for him and he makes better decisions with his life.

Sincerely

Edmee Delgado